

CASE UNSEALED PER ORDER OF COURT

FILED

2012 JUN 21 PM 4: 52

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY Van DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

June 2011 Grand Jury

12 CR 2497 AJB

UNITED STATES OF AMERICA,

Case No.

Plaintiff,

I N D I C T M E N T

v.

Title 26, U.S.C., Sec. 7212(a) -

JAMES FRANCIS MURPHY (1),  
DENINE CHRISTINE MURPHY (2),

Corrupt Interference with

Administration of the Internal

Revenue Laws; Title 18, U.S.C.,

Sec. 514 - Fictitious Financial

Obligations; Title 18, U.S.C.,

Sec. 287 - False Claims; Title

18, U.S.C., Sec. 2 - Aiding and

Abetting

Defendants.

The Grand Jury charges:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times material to this Indictment, defendants JAMES FRANCIS MURPHY and DENINE CHRISTINE MURPHY were husband and wife.

2. At all times material to this Indictment, defendant JAMES FRANCIS MURPHY was an osteopathic physician licensed to practice in California and Nebraska.

3. At all times material to this Indictment, defendant JAMES FRANCIS MURPHY conducted a for-profit medical practice in Encinitas, California, and in Omaha, Nebraska.

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SPC:lml:San Diego  
6/19/12



1 (e) filing with the IRS false U.S. Individual Income Tax Returns,  
2 Forms 1040, for calendar years 2005, 2006, and 2007 that falsely claimed  
3 tax refunds of \$461,940.20 (2005), \$460,303.74 (2006), and \$314,102.90  
4 (2007), to which defendants JAMES FRANCIS MURPHY and DENINE CHRISTINE  
5 MURPHY were not entitled;

6 (f) presenting to the IRS fictitious financial instruments,  
7 titled "Private Discharging and Indemnity Bonds," in payment of their  
8 federal income taxes due for calendar years 2003, 2004, 2005, and  
9 2006;

10 (g) presenting to the IRS fictitious financial instruments,  
11 titled "money orders," in payment of their federal income taxes due;

12 (h) presenting to the IRS numerous Notices Concerning Fiduciary  
13 Relationship, IRS Forms 56, falsely identifying the Secretary of the  
14 Treasury as the fiduciary for defendants JAMES FRANCIS MURPHY and  
15 DENINE CHRISTINE MURPHY, and bearing the forged signature of the  
16 Secretary of the Treasury; and

17 (i) sending false, written accusations of criminal conduct to an  
18 employee of the IRS in order to intimidate the employee from  
19 performing his official duties.

20 All in violation of Title 26, United States Code, Section 7212(a).

21 Count 2

22 FICTITIOUS FINANCIAL OBLIGATIONS  
23 [18 U.S.C. § 514]

24 On or about February 14, 2008, in the Southern District of  
25 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the  
26 intent to defraud, pass, utter, present, and offer, and attempt to  
27 pass, utter, present, and offer a false and fictitious document  
28 appearing, representing and purporting to be an actual security or

1 financial instrument issued under the authority of the United States  
2 by mailing and causing to be mailed to the Internal Revenue Service  
3 a "Bonded Promissory Note" in the face amount of \$763,622 as payment  
4 for taxes due for calendar year 2003 on behalf of Cornerstone  
5 Progressive Health.

6 All in violation of Title 18, United States Code, Sections 514 and 2.

7 Count 3

8 FICTITIOUS FINANCIAL OBLIGATIONS  
9 [18 U.S.C. § 514]

10 On or about February 14, 2008, in the Southern District of  
11 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the  
12 intent to defraud, pass, utter, present, and offer, and attempt to  
13 pass, utter, present, and offer a false and fictitious document  
14 appearing, representing and purporting to be an actual security or  
15 financial instrument issued under the authority of the United States  
16 by mailing and causing to be mailed to the Internal Revenue Service  
17 a "Bonded Promissory Note" in the face amount of \$785,482 as payment  
18 for taxes due for calendar year 2003 on behalf of defendants JAMES  
19 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

20 All in violation of Title 18, United States Code, Sections 514 and 2.

21 Count 4

22 FICTITIOUS FINANCIAL OBLIGATIONS  
23 [18 U.S.C. § 514]

24 On or about February 14, 2008, in the Southern District of  
25 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the  
26 intent to defraud, pass, utter, present, and offer, and attempt to  
27 pass, utter, present, and offer a false and fictitious document  
28 appearing, representing and purporting to be an actual security or

1 financial instrument issued under the authority of the United States  
2 by mailing and causing to be mailed to the Internal Revenue Service  
3 a "Bonded Promissory Note" in the face amount of \$948,714 as payment  
4 for taxes due for calendar year 2004 on behalf of defendants JAMES  
5 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

6 All in violation of Title 18, United States Code, Sections 514 and 2.

7 Count 5

8 FICTITIOUS FINANCIAL OBLIGATIONS  
9 [18 U.S.C. § 514]

10 On or about February 14, 2008, in the Southern District of  
11 California and elsewhere, defendant JAMES FRANCIS MURPHY did, with the  
12 intent to defraud, pass, utter, present, and offer, and attempt to  
13 pass, utter, present, and offer a false and fictitious document  
14 appearing, representing and purporting to be an actual security or  
15 financial instrument issued under the authority of the United States  
16 by mailing and causing to be mailed to the Internal Revenue Service  
17 a "Bonded Promissory Note" in the face amount of \$937,358 as payment  
18 for taxes due for calendar year 2005 on behalf of defendants JAMES  
19 FRANCIS MURPHY and DENINE CHRISTINE MURPHY.

20 All in violation of Title 18, United States Code, Sections 514 and 2.

21 Count 6

22 FALSE CLAIMS  
23 [18 U.S.C. § 287]

24 On or about April 16, 2008, in the Southern District of  
25 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE  
26 CHRISTINE MURPHY, residents of Encinitas, California, made and  
27 presented to the United States a claim for payment of a fraudulent tax  
28 refund in the amount of \$461,940.20, with knowledge that such claim

1 was false, fictitious, and fraudulent. The defendants made the false  
2 claim by submitting a U.S. Individual Income Tax Return, Form 1040,  
3 for calendar year 2005, based on fictitious Forms 1099-OID, Original  
4 Issue Discount, to the United States Treasury Department through the  
5 Internal Revenue Service.

6 All in violation of Title 18, United States Code, Sections 287 and 2.

7 Count 7

8 FALSE CLAIMS  
9 [18 U.S.C. § 287]

10 On or about April 16, 2008, in the Southern District of  
11 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE  
12 CHRISTINE MURPHY, residents of Encinitas, California, made and  
13 presented to the United States a claim for payment of a fraudulent tax  
14 refund in the amount of \$460,303.74, with knowledge that such claim  
15 was false, fictitious, and fraudulent. The defendants made the false  
16 claim by submitting a U.S. Individual Income Tax Return, Form 1040,  
17 for calendar year 2006, based on fictitious Forms 1099-OID, Original  
18 Issue Discount, to the United States Treasury Department through the  
19 Internal Revenue Service.

20 All in violation of Title 18, United States Code, Sections 287 and 2.

21 Count 8

22 FALSE CLAIMS  
23 [18 U.S.C. § 287]

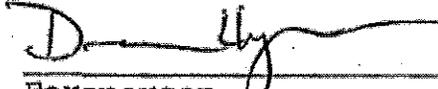
24 On or about April 16, 2008, in the Southern District of  
25 California and elsewhere, defendants JAMES FRANCIS MURPHY and DENINE  
26 CHRISTINE MURPHY, residents of Encinitas, California, made and  
27 presented to the United States a claim for payment of a fraudulent tax  
28 refund in the amount of \$341,102.90, with knowledge that such claim

1 was false, fictitious, and fraudulent. The defendants made the false  
2 claim by submitting a U.S. Individual Income Tax Return, Form 1040,  
3 for calendar year 2007, based on fictitious Forms 1099-OID, Original  
4 Issue Discount, to the United States Treasury Department through the  
5 Internal Revenue Service.

6 All in violation of Title 18, United States Code, Sections 287 and 2.

7 DATED: June 21, 2012.

A TRUE BILL:

8   
9 \_\_\_\_\_  
10 Foreperson

11 LAURA E. DUFFY  
12 United States Attorney

13 By:   
14 STEPHEN P. CLARK  
Assistant U.S. Attorney

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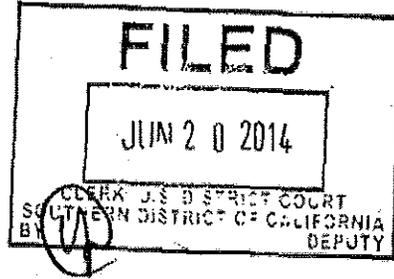
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No.12cr2497 AJB

Plaintiff,

VERDICT

v.

JAMES FRANCIS MURPHY (1), DENINE  
CHRISTINE MURPHY (2),

Defendants.

We, the jury in the above-entitled case, on the charges in the Indictment, find as follows:

**On Count 1: Corrupt Interference with Administration of the Internal Revenue laws:**

As to Defendant James Francis Murphy

Guilty  
Not guilty Guilty

1 If you find the defendant James Francis Murphy guilty, answer the following  
2 question:

3 We unanimously find that the government, HAS  
4 has not ~~(has)~~

5 proved beyond a reasonable doubt that James Francis Murphy committed at least one of  
6 the act or acts charged after June 21, 2006, with all of us agreeing unanimously as to at  
7 least one act after that date.

8  
9 As to Defendant Denine Christine Murphy GUILTY  
10 Not guilty / ~~(Guilty)~~

11 If you find the defendant Denine Christine Murphy guilty, answer the following  
12 question:

13 We unanimously find that the government, HAS  
14 has not ~~(has)~~

15 proved beyond a reasonable doubt that Denine Christine Murphy committed at least one  
16 of the act or acts charged after June 21, 2006, with all of us agreeing unanimously as to  
17 at least one act after that date.

18  
19 **On Count 2: Filing a Fictitious Financial Obligation,**

20  
21 As to Defendant James Francis Murphy GUILTY  
22 Not guilty / ~~(Guilty)~~

23  
24 **On Count 3: Filing a Fictitious Financial Obligation,**

25  
26 As to Defendant James Francis Murphy GUILTY  
27 Not guilty / ~~(Guilty)~~

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**On Count 4: Filing a Fictitious Financial Obligation,**

As to Defendant James Francis Murphy           GUILTY            
Not guilty (Guilty)

**On Count 5: Filing a Fictitious Financial Obligation,**

As to Defendant James Francis Murphy           GUILTY            
Not guilty (Guilty)

**On Count 6: Making a False Claim for Payment,**

As to Defendant James Francis Murphy           GUILTY            
Not guilty (Guilty)

As to Defendant Denine Christine Murphy           GUILTY            
Not guilty (Guilty)

**On Count 7: Making a False Claim for Payment,**

As to Defendant James Francis Murphy           GUILTY            
Not guilty (Guilty)

As to Defendant Denine Christine Murphy           GUILTY            
Not guilty (Guilty)

1 **On Count 8: Making a False Claim for Payment,**

2  
3 As to Defendant James Francis Murphy           *GUILTY*            
4 Not guilty           *GUILTY*          

5  
6 As to Defendant Denine Christine Murphy           *GUILTY*            
7 Not guilty           *GUILTY*          

8  
9  
10  
11 Date:           *JUNE 20, 2014*            
12 San Diego, CA

          *J. A. [Signature]*            
Foreperson of the Jury

FEB 4 2015

CLERK OF DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
70

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA  
v.  
JAMES FRANCIS MURPHY (01)

AMENDED JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)

Case Number: 12CR2497-AJB-01

Benjamin Coleman

Defendant's Attorney

REGISTRATION NO. 07327298

Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

pleaded guilty to count(s) \_\_\_\_\_

was found guilty on count(s) One, Two, Three, Four, Five, Six, Seven & Eight of the Indictment  
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
26:7212(a)	Corrupt Interference with Administration of the Internal Revenue Laws	1
18:514	Fictitious Financial Obligations	2-5
18:287	False Claims	6-8

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) \_\_\_\_\_ is  are  dismissed on the motion of the United States.

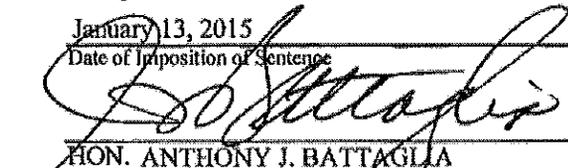
Assessment: \$800.00  
(\$100.00 as to each count)

Fine waived as to each count  Forfeiture pursuant to order filed \_\_\_\_\_, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

January 13, 2015

Date of Imposition of Sentence

  
HON. ANTHONY J. BATTAGLIA  
UNITED STATES DISTRICT JUDGE

DEFENDANT: JAMES FRANCIS MURPHY (01)  
CASE NUMBER: 12CR2497-AJB-01

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of THIRTY-SIX (36) MONTHS - AS TO COUNT 1  
FOURTY-EIGHT (48) MONTHS - AS TO EACH COUNT 2-8, ALL TO RUN CONCURRENT WITH COUNT 1.

- Sentence imposed pursuant to Title 8 USC Section 1326(b).
- The court makes the following recommendations to the Bureau of Prisons:  
The court recommends custody be served in the Western Region.

- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:  
 at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_  
as notified by the United States Marshal.

- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:  
 before or on 02/24/15 @ 11am  
 as notified by the United States Marshal.  
 as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JAMES FRANCIS MURPHY (01)

CASE NUMBER: 12CR2497-AJB-01

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of:

ONE (1) YEAR - As to Count 1

THREE (3) YEARS - AS TO EACH COUNT 2-8, ALL TO RUN CONCURRENT WITH COUNT 1

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

*For offenses committed on or after September 13, 1994:*The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC sections 3563(a)(7) and 3583(d).
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JAMES FRANCIS MURPHY (01)  
CASE NUMBER: 12CR2497-AJB-01

**SPECIAL CONDITIONS OF SUPERVISION**

- Submit person, property, residence, office or vehicle to a search, conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
- If deported, excluded, or allowed to voluntarily return to country of origin, not reenter the United States illegally and report to the probation officer within 24 hours of any reentry to the United States; supervision waived upon deportation, exclusion or voluntary departure.
- Not transport, harbor, or assist undocumented aliens.
- Not associate with undocumented aliens or alien smugglers.
- Not reenter the United States illegally.
- Not enter or reside in the Republic of Mexico without written permission of the Court or probation officer.
- Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The Court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.
- Take no medication containing a controlled substance without valid medical prescription, and provide proof of prescription to the probation officer, if directed.
- Provide complete disclosure of personal and business financial records to the probation officer as requested.
- Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.
- Seek and maintain full time employment and/or schooling or a combination of both.
- Resolve all outstanding warrants within \_\_\_\_\_ days.
- Complete \_\_\_\_\_ hours of community service in a program approved by the probation officer within \_\_\_\_\_
- Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of \_\_\_\_\_
- Participate in a program of drug or alcohol abuse treatment, including urinalysis or sweat patch testing and counseling, as directed by the probation officer. Allow for reciprocal release of information between the probation officer and the treatment provider. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.
- Notify the Collections Unit, United States Attorney's Office, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, or entity, including a trust, partnership or corporation until the fine or restitution is paid in full.

Notify the Collections Unit, United States Attorney's Office, before transferring any interest in property owned, directly or indirectly, including any interest held or owned under any other name, or entity, including a trust, partnership or corporation.

DEFENDANT: JAMES FRANCIS MURPHY (01)  
CASE NUMBER: 12CR2497-AJB-01

**RESTITUTION**

The defendant shall pay restitution in the amount of \$447,528.00 unto the United States of America.

Payable through the Clerk, USDC in favor of I.R.S.

This sum shall be paid        immediately.  
  x   as follows:

Restitution for the tax years 2005-2007, totaling \$178,246, will be joint and several with co-defendant Denine Christine Murphy. Payment of restitution will be forthwith. Payment will be through the Clerk, U.S. District Court. The defendant will include, with his payments to the District Court, his name and social security number, the District Court's docket number assigned to this case, the tax years or periods for which restitution has been ordered, and a request that this information be sent, along with the payments, to the appropriate office of the Internal Revenue Service.

Pay restitution in an amount to be determined to the Internal Revenue Service through the Clerk, U. S. District Court. Payment of restitution shall be forthwith. During any period of incarceration the defendant shall pay restitution through the Inmate Financial Responsibility Program at the rate of 50% of the defendant's income, or \$25.00 per quarter, whichever is greater. The defendant shall pay the restitution during his supervised release at the rate of \$2,150 per month. These payment schedules do not foreclose the United States from exercising all legal actions, remedies, and process available to it to collect the restitution judgment.

Victim Amount Address: Internal Revenue Service-RACS  
Attn: Mail Stop 6261, Restitution  
333 W. Pershing Ave.  
Kansas City, MO 64108

Until restitution has been paid, the defendant shall notify the Clerk of the Court and the United States Attorney's Office of any change in the defendant's mailing or residence address, no later than thirty (30) days after the change occurs.

The Court has determined that the defendant does not have the ability to pay interest. It is ordered that:

  x   The interest requirement is waived.

       The interest is modified as follows:

BEFORE THE  
OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**JAMES F. MURPHY, D.O.**  
807 Hymettus Avenue  
Encinitas, CA 92024-2150

Osteopathic Physician's and Surgeon's  
Certificate No. 20A5783

Respondent

Case No. 900-2015-000134

OAH No. 2015120265

**FILED**

SEP 27 2016

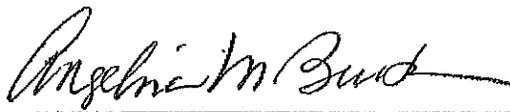
OSTEOPATHIC MEDICAL BOARD  
OF CALIFORNIA

DECISION AND ORDER

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted by the Osteopathic Medical Board of California, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on October 24, 2016

It is so ORDERED September 22, 2016.



ANGELINA M. BURTON, EXECUTIVE DIRECTOR  
FOR THE OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 JASON J. AHN  
Deputy Attorney General  
4 State Bar No. 253172  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 738-9433  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12  
13 In the Matter of the Accusation Against:

Case No. 900-2015-000134

14 **JAMES F. MURPHY, D.O.**  
807 Hymettus Avenue  
15 Encinitas, CA 92024-2150

OAH No. 2015120265

16 **Osteopathic Physician's and Surgeon's,**  
Certificate No. 20A5783

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

17 Respondent.  
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19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Angelina M. Burton (Complainant) is the Executive Director of the Osteopathic  
24 Medical Board of California. She brought this action solely in her official capacity and is  
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
26 Jason J. Ahn, Deputy Attorney General.

27 2. James F. Murphy, D.O. (respondent) is representing himself in this proceeding and  
28 has chosen not to exercise his right to be represented by counsel.

**JURISDICTION**

1  
2           3.     On or about July 24, 1989, the Osteopathic Medical Board of California issued  
3 Osteopathic Physician's and Surgeon's Certificate No. 20A5783 to respondent. The Osteopathic  
4 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
5 charges brought in Accusation No. 900-2015-000134 and expired on April 30, 2016.

6           4.     Accusation No. 900-2015-000134 was filed before the Osteopathic Medical Board of  
7 California (Board), Department of Consumer Affairs, and is currently pending against  
8 respondent. The Accusation and all other statutorily required documents were properly served on  
9 respondent on August 4, 2015. Respondent timely filed his Notice of Defense contesting the  
10 Accusation. A copy of Accusation No. 900-2015-000134 is attached as Exhibit A and  
11 incorporated by reference.

**ADVISEMENT AND WAIVERS**

12  
13           5.     Respondent has carefully read, and fully understands the charges and allegations in  
14 Accusation No. 900-2015-000134. Respondent also has carefully read, and fully understands the  
15 effects of this Stipulated Surrender of License and Order.

16           6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
20 the attendance of witnesses and the production of documents; the right to reconsideration and  
21 court review of an adverse decision; and all other rights accorded by the California  
22 Administrative Procedure Act and other applicable laws.

23           7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
24 every right set forth above.

25     ///

26     ///

27     ///

28     ///



1 between the parties, and the Board shall not be disqualified from further action by having  
2 considered this matter.

3 **ADDITIONAL PROVISIONS**

4 13. This Stipulated Surrender of License and Disciplinary Order is intended by the parties  
5 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
6 the agreement of the parties in the above-entitled matter.

7 14. The parties understand and agree that copies of this Stipulated Surrender of License  
8 and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of  
9 original documents and signatures and, further, that such copies and signatures shall have the  
10 same force and effect as the originals.

11 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
12 the Board may, without further notice or formal proceeding, issue and enter the following Order:

13 **ORDER**

14 IT IS HEREBY ORDERED that Osteopathic Physician's and Surgeon's, D.O. Certificate  
15 No. 20A5783, issued to respondent James F. Murphy, D.O., is surrendered and accepted by the  
16 Osteopathic Medical Board of California.

17 1. The surrender of respondent's Osteopathic Physician's and Surgeon's Certificate and  
18 the acceptance of the surrendered license by the Board shall constitute the imposition of  
19 discipline against respondent. This stipulation constitutes a record of the discipline and shall  
20 become a part of respondent's license history with the Osteopathic Medical Board of California.

21 2. Respondent shall lose all rights and privileges as a Osteopathic Physician and  
22 Surgeon, in California, as of the effective date of the Board's Decision and Order.

23 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
24 issued, his wall certificate on or before the effective date of the Decision and Order.

25 4. If respondent ever files an application for licensure or a petition for reinstatement in  
26 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
27 comply with all the laws, regulations, and procedures for reinstatement of a revoked license in  
28 effect at the time the petition is filed, and all of the charges and allegations contained in

1 Accusation No. 900-2015-000134 shall be deemed to be true, correct, and admitted by respondent  
2 when the Board determines whether to grant or deny the petition.

3 5. If respondent should ever apply or reapply for a new license or certification, or  
4 petition for reinstatement of a license, by any other health care licensing agency in the State of  
5 California, all of the charges and allegations contained in Accusation, No. 900-2015-000134 shall  
6 be deemed to be true, correct, and admitted by respondent for the purpose of any Statement of  
7 Issues or any other proceeding seeking to deny or restrict licensure.

8 ACCEPTANCE

9 I have carefully read the Stipulated Surrender of License and Order. I understand the  
10 stipulation and the effect it will have on my Osteopathic Physician's and Surgeon's Certificate. I  
11 enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and  
12 intelligently, and agree to be bound by the Decision and Order of the Osteopathic Medical Board  
13 of California.

14 DATED: 9-1-16   
15 JAMES F. MURPHY, D.O.  
16 Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
19 for consideration by the Osteopathic Medical Board of California of the Department of Consumer  
20 Affairs.

21 Dated: 9/2/16 Respectfully submitted,  
22 KAMALA D. HARRIS  
23 Attorney General of California  
24 MATTHEW M. DAVIS  
25 Supervising Deputy Attorney General

26   
27 JASON J. AHN  
28 Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation No. 900-2015-000134**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALEXANDRA M. ALVAREZ  
Supervising Deputy Attorney General  
3 MATTHEW M. DAVIS  
Deputy Attorney General  
4 State Bar No. 202766  
600 W. Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2093  
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

FILED

OSTEOPATHIC MEDICAL BOARD  
OF CALIFORNIA

10 BEFORE THE  
11 OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 900-2015-000134

14 JAMES F. MURPHY, D.O.  
807 Hymettus Avenue  
15 Encinitas, CA 92024-2150

ACCUSATION

16 Osteopathic Physician's and Surgeon's  
Certificate No. 20A5783,

17 Respondent.

18  
19  
20 Complainant alleges:

21 PARTIES

22 1. Angelina M. Burton (Complainant) brings this Accusation solely in her official  
23 capacity as the Executive Director of the Osteopathic Medical Board of California, Department of  
24 Consumer Affairs.

25 2. On or about July 24, 1989, the Osteopathic Medical Board of California (Board)  
26 issued Osteopathic Physician's and Surgeon's Certificate No. 20A5783 to James F. Murphy, D.O.  
27 (Respondent). The Osteopathic Physician's and Surgeon's Certificate was in full force and effect  
28

1 at all times relevant to the charges and allegations brought herein and will expire on April 30,  
2 2016, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before Board under the authority of the following laws.  
5 All section references are to the Business and Professions Code (Code) unless otherwise  
6 indicated.

7 4. Section 3600 of the Code states that the law governing licentiates of the Osteopathic  
8 Medical Board of California is found in the Osteopathic Act and in Chapter 5 of Division 2,  
9 relating to medicine.

10 5. Section 3600-2 of the Code states:

11 "The Osteopathic Medical Board of California shall enforce those portions of  
12 the Medical Practice Act identified as Article 12 (commencing with Section 2220), of  
13 Chapter 5 of Division 2 of the Business and Professions Code, as now existing or  
14 hereafter amended, as to persons who hold certificates subject to the jurisdiction of  
15 the Osteopathic Medical Board of California, however, persons who elect to practice  
16 using the term or suffix "M.D." as provided in Section 2275 of the Business and  
17 Professions Code, as now existing or hereafter amended, shall not be subject to this  
18 section, and the Medical Board of California shall enforce the provisions of the article  
19 as to persons who make the election. After making the election, each person so  
20 electing shall apply for renewal of his or her certificate to the Medical Board of  
21 California, and the Medical Board of California shall issue renewal certificates in the  
22 same manner as other renewal certificates are issued by it."

23 6. Section 2227 of the Code provides that a licensee who is found guilty under the  
24 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
25 one year, placed on probation and required to pay the costs of probation monitoring, be publicly  
26 reprimanded and ordered to complete relevant educational courses, or have such other action  
27 taken in relation to discipline as the Board or an administrative law judge deems proper.

28 ///

1           7.    Section 2234 of the Code states:

2                   “The Division of Medical Quality shall take action against any licensee who  
3                   is charged with unprofessional conduct.<sup>1</sup> In addition to other provisions of this  
4                   article, unprofessional conduct includes, but is not limited to, the following:

5                   “(a) Violating or attempting to violate, directly or indirectly, or assisting in  
6                   or abetting the violation of, or conspiring to violate, any provision of this chapter.

7                   “(b) Gross negligence.

8                   “(c) Repeated negligent acts. To be repeated, there must be two or  
9                   more negligent acts or omissions. An initial negligent act or  
10                  omission followed by a separate and distinct departure from the  
11                  applicable standard of care shall constitute repeated negligent acts.

12                  “(1) An initial negligent diagnosis followed by an act or omission  
13                  medically appropriate for that negligent diagnosis of the patient  
14                  shall constitute a single negligent act.

15                  “(2) When the standard of care requires a change in the diagnosis,  
16                  act, or omission that constitutes the negligent act described in  
17                  paragraph (1), including, but not limited to, a reevaluation of the  
18                  diagnosis or a change in treatment, and the licensee's conduct  
19                  departs from the applicable standard of care, each departure  
20                  constitutes a separate and distinct breach of the standard of care.

21                  “(d) Incompetence.

22                  “(e) The commission of any act involving dishonesty or corruption which is  
23                  substantially related to the qualifications, functions, or duties of a physician and  
24                  surgeon.

25 \_\_\_\_\_  
26 <sup>1</sup> Unprofessional conduct under California Business and Professions Code section 2234 is  
27 conduct which breaches the rules of ethical code of the medical profession, or conduct which is  
28 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
575.)

1 “(f) Any action or conduct which would have warranted the denial of a certificate,  
2 “....”

3 8. Section 2236 of the Code states:

4 “(a) The conviction of any offense substantially related to the qualifications,  
5 functions, or duties of a physician and surgeon constitutes unprofessional conduct  
6 within the meaning of this chapter. The record of conviction shall be conclusive  
7 evidence only of the fact that the conviction occurred.

8 “(b) The district attorney, city attorney, or other prosecuting agency shall notify  
9 the Board of the pendency of an action against a licensee charging a felony or  
10 misdemeanor immediately upon obtaining information that the defendant is a  
11 licensee. The notice shall identify the licensee and describe the crimes charged and  
12 the facts alleged. The prosecuting agency shall also notify the clerk of the court in  
13 which the action is pending that the defendant is a licensee, and the clerk shall record  
14 prominently in the file that the defendant holds a license as a physician and surgeon.

15 “(c) The clerk of the court in which a licensee is convicted of a crime shall,  
16 within 48 hours after the conviction, transmit a certified copy of the record of  
17 conviction to the board. The division may inquire into the circumstances  
18 surrounding the commission of a crime in order to fix the degree of discipline or to  
19 determine if the conviction is of an offense substantially related to the qualifications,  
20 functions, or duties of a physician and surgeon.

21 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is  
22 deemed to be a conviction within the meaning of this section and Section 2236.1.  
23 The record of conviction shall be conclusive evidence of the fact that the conviction  
24 occurred.”

#### 25 COST RECOVERY

26 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licentiate found to have committed a violation or violations of  
28 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Conviction of Crimes Substantially Related)**

4 10. Respondent has subjected his Osteopathic Physician's and Surgeon's Certificate No.  
5 20A5783 to disciplinary action under sections 3600-2, 2227 and 2234, as defined by 2236, of the  
6 Code, in that he has been convicted of crimes substantially related to the qualifications, functions,  
7 or duties of a physician and surgeon. The circumstances are as follows:

8 11. On or about June 21, 2012, a criminal indictment was filed against respondent  
9 in the case entitled *United States of America v. James F. Murphy et al., United States*  
10 *District Court, Southern District of California*, Case No. 12C2497, charging respondent  
11 with the following counts:

12 A. Count 1 – Beginning on a date unknown to the grand jury, but no later  
13 than September 2000, and continuing to at least June 21, 2012, in the Southern  
14 District of California and elsewhere, respondent did corruptly endeavor to obstruct  
15 and impede the due administration of the internal revenue laws in violation of Title  
16 26, United States Code, Section 7212, subdivision (a), by:

17 (i) Using Cornerstone Progressive Health (CPH) a sham trust, that is a trust  
18 with no economic purpose other than unlawfully evading the payment of federal  
19 income taxes, to hide the income earned from the practice of medicine by respondent  
20 from the Internal Revenue Service (IRS);

21 (ii) Filing with the IRS false U.S. Income Tax Returns for Estates and Trusts,  
22 Forms 1041, for calendar years 2003 through 2005, on behalf of CPH;

23 (iii) Filing with the IRS a fraudulent U.S. Individual Income Tax Return, Form  
24 1040, for calendar year 2003, which falsely reported an adjusted gross income of -  
25 \$8,021.00;

26 (iv) Presenting to the IRS fictitious "Bonded Promissory Notes" in payment of  
27 their federal income taxes due for calendar years 2003, 2004, and 2005;

28

1 (v) Filing with the IRS false U.S. Individual Income Tax Returns, Forms 1040,  
2 for calendar years 2005, 2006, and 2007 that falsely claimed tax refunds of  
3 \$461,940.20 (2005), \$460,303.74 (2006), and \$314,102.90 (2007) , to which  
4 respondent was not entitled;

5 (vi) Presenting to the IRS fictitious financial instruments, titled "Private  
6 Discharging and Indemnity Bonds," in payment of their federal income taxes due for  
7 calendar years 2003, 2004, 2005, and 2006;

8 (vii) Presenting to the IRS fictitious financial instruments, titled "money  
9 orders," in payment of their federal income taxes due;

10 (viii) Presenting to the IRS numerous Notices Concerning Fiduciary  
11 Relationship, IRS Forms 56, falsely identifying the Secretary of the Treasury as the  
12 fiduciary for respondent, and bearing the forged signature of the Secretary of the  
13 Treasury; and

14 (ix) Sending false, written accusations of criminal conduct to an employee of  
15 the IRS in order to intimidate the employee from performing his official duties.

16 B. Counts 2 through 5 – On or about February 14, 2008, in the Southern  
17 District of California and elsewhere, respondent did, with the intent to defraud, pass,  
18 utter, present, and offer, and attempt to pass, utter, present, and offer a false and  
19 fictitious document appearing, representing and purporting to be an actual security or  
20 financial instrument issued under the authority of the United States by mailing and  
21 causing to be mailed to the Internal Revenue Service Bonded Promissory Notes in  
22 varying face amounts of as payment for taxes due for calendar year 2003, on behalf of  
23 Cornerstone Progressive Health and respondent in violation of Title 26, United States  
24 Code, Section 514.

25 C. Counts 6 through 8 - On or about April 16, 2008, in the Southern District  
26 of California and elsewhere, respondent made and presented to the United States  
27 claims for payment of fraudulent tax refunds in violation of Title 26, United States  
28 Code, Section 287.

1 D. On or about June 20, 2014, respondent, after a jury trial, was found  
2 guilty as to Counts 1, 2, 3, 4, 5, 6, 7, and 8 of the indictment.

3 E. On or about January 15, 2015, respondent was sentenced to forty-eight  
4 (48) months in federal prison to commence on or before February 24, 2015, followed  
5 by three (3) years supervised release.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Dishonesty or Corruption)**

8 12. Respondent has further subjected his Osteopathic Physician's and Surgeon's  
9 Certificate No. 20A5783 to disciplinary action under sections 3600-2, 2227 and 2234, as defined  
10 by section 2234, subdivision (e), of the Code, in that he has committed an act or acts of  
11 dishonesty or corruption, as more particularly alleged in paragraph 11(A) through 11(E), above,  
12 which are hereby incorporated by reference and realleged as if fully set forth herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 13. Respondent has further subjected his Osteopathic Physician's and Surgeon's  
16 Certificate No. 20A5783 to disciplinary action under sections 3600-2, 2227 and 2234, as defined  
17 by section 2234, of the Code, in that he has engaged in conduct which breaches the rules or  
18 ethical code of the medical profession, or conduct which is unbecoming to a member in good  
19 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as  
20 more particularly alleged in paragraphs 11(A) through 11(E) and 12, above, which are hereby  
21 incorporated by reference and realleged as if fully set forth herein.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Osteopathic Medical Board of California issue a decision:

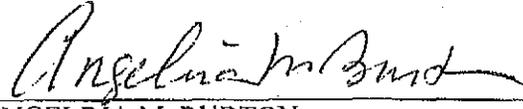
25 1. Revoking or suspending Osteopathic Physician's and Surgeon's Certificate No.  
26 20A5783, issued to respondent James F. Murphy, D.O.;

27 2. If placed on probation, ordering respondent James F. Murphy, D.O., to pay probation  
28 monitoring costs;

1           3.    Ordering respondent James F. Murphy, D.O., to pay the Osteopathic Medical Board  
2 of California the reasonable costs of the investigation and enforcement of this case, pursuant to  
3 Business and Professions Code section 125.3; and

4           4.    Taking such other and further action as deemed necessary and proper.

5 DATED: August 4, 2015



6 ANGELINA M. BURTON  
7 Executive Director  
8 Osteopathic Medical Board of California.  
9 Department of Consumer Affairs  
10 State of California  
11 *Complainant*

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

**In the Matter of the Accusation Against:**  
**James F. Murphy, D.O.**  
**Case No: 900-2015-000134**  
**OAH No: 2015120265**

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1300 National Drive, Suite 150, Sacramento, CA 95834.

**On September 22, 2016**, I served the attached **Stipulated Surrender of License and Order with Exhibit A, Accusation No. 900-2015-000134, and Decision and Order**, by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Stipulated Surrender of License and Order with Exhibit A, Accusation No. 900-2015-000134 and Decision and Order**, as enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Osteopathic Medical Board of California addressed as follows:

**NAME AND ADDRESS**

(certified and regular mail)

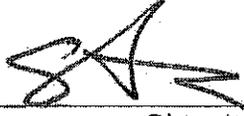
James F. Murphy, D.O.  
807 Hymettus Avenue  
Encinitas, CA 92024-2150

Certified Mail No:  
91 7199 9991 7036 9509 9594

91 7199 9991 7036 9509 9594

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 22 2016, at Sacramento, California.

\_\_\_\_\_  
Steve Ly  
Declarant

  
\_\_\_\_\_  
Signature

cc: Jason J. Ahn, Deputy Attorney General